

## Global Social Policy Forum: 'I Got My Annex!'

Waghorne, Mike

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developing countries would be substantively addressed under this approach, in return for the commitments that may have to be undertaken in key services. It is uncertain whether there would be a balanced outcome from such negotiations. It is thus not surprising that many developing countries and least-developed countries (LDCs) have misgivings about the complementary approach, despite assurances that the GATS' negotiating architecture would not be undermined.

But whether or not the services negotiations receive an impetus from the Hong Kong Declaration and the new modalities, the GATS negotiations provide all countries with an opportunity to take stock of and develop their domestic regulatory and institutional frameworks in services, with active involvement from all domestic stakeholders. In this regard, the plurilateral approach may put additional pressure on some of the major developing countries to assess the institutional and regulatory deficiencies in their key service sectors and to adopt a more proactive domestic reform agenda in services, which may prove to be a gain in itself.

#### ACKNOWLEDGEMENT

This article is based on an earlier piece by the author, titled 'Plurilateral Negotiations in Services: What Price?', published in the editorial section of the Indian newspaper *The Financial Express*, on Tuesday, 10 January 2006.

Please address correspondence to: Rupa Chanda, Professor, Economics and Social Sciences Area, Indian Institute of Management, Bannerghatta Road, Bangalore-560076, India. [email: rupa@iimb.ernet.in]

MIKE WAGHORNE

*Public Services International, France*

*'I Got My Annex!'*

(MIKE WAGHORNE is the Assistant General Secretary of Public Services International in Ferney-Voltaire, France.)

That heading is the triumphant summary of the services negotiations at the sixth World Trade Organization (WTO) Ministerial Conference in Hong Kong in December 2005 by the Mexican Ambassador to the WTO, Fernando de Mateo. He also chairs the Council on Trade in Services in Special Session, the body responsible for supervising the services negotiations.

The Annex to which he refers is the infamous Annex C to the final Ministerial Declaration adopted in Hong Kong and we will come back to that, but first a little history and some context.

The current round of WTO negotiations, the so-called Doha Development Round, is posited on the 'agreement' adopted in Doha in 2001 that the new Round of negotiations would have a development focus, in which the trading

and development interests of developing countries would take pride of place. Gone, for once, would be the usual mercantilist approach to negotiations, in which my country only makes concessions to yours or others if we get something equivalent in return – a ‘fair deal’. Doha recognized that there can be no such fair deals when the outcome of previous rounds has been so unbalanced. This round was going to level the playing field somewhat. So, the principle of non-reciprocity was accepted – the developing countries could ask for and get deals for which they did not have to make a ‘fair’ offer in return.

The problem is that the North basically decided to go back on the deal and to ask that a very large number of developing countries, at least, must work on a tit-for-tat basis. That’s what partially wrecked Cancún – the North was asking for very significant new concessions, notably the so-called Singapore issues, from the South.

By July 2004, it was clear that all pretence about a development round had gone and the North started to increase its demands, starting with the July Package of 2004. This certainly was evident in the intransigent positions the EU and the USA were taking over agriculture, making ‘offers’ that would make substantially no real difference to developing countries’ market access, and in the non-Agriculture Market Access negotiations. In the latter, the North was essentially asking the South to wipe out huge swathes of their tariffs (something the North had never even contemplated at their own equivalent stage of industrial development), leading to the spectre of industries in the South being turned into graveyards and of the South foregoing any chance of its own indigenous industrial development.

To top it all off, the EU decided that the services negotiations were progressing far too slowly and they wanted to see a significant opening of services markets if they were going to be ‘generous’ on agricultural offers. Developing countries with whom we have met have told us that they regard this claim of slowness as ridiculous: negotiations have been going on in agriculture for over 50 years and there is still not decent market access for many developing countries. In contrast, they say, negotiations under the General Agreement on Trade in Services (GATS) have been going for only 10 years and there has been considerable work done in this area.

By early 2005, the EU and several other Organisation for Economic Co-operation and Development (OECD) countries upped the ante further. Progress is so slow, they said, that we are going to introduce a new approach to the services negotiations: ‘benchmarking’. Each country would be required to make services commitments in a specified number of services (depending on the kind of country). Further, your commitments each had to make an actual difference to market access. Countries would be ranked on how they measured up and this would be used for/against them in other negotiations. In addition, they set clear targets for improvements in each mode of services trade. Crucially, under Mode 3, the opening of commercial presence, foreign

equity ownership of at least 51% would be required. In other words, a takeover of developing country services sectors by Northern multinationals.

Significantly, the only area where such tough requirements were not specified in these OECD country benchmarks was Mode 4 – the opening of access for the temporary movement of service providers, the main demand of developing countries in these negotiations and one that the North did not want to open up.

The South roundly condemned this whole approach – now called ‘complementary approaches’, to hide the raw benchmarking tone. As the October General Council meeting, which would set the draft text for Hong Kong adoption, approached, the pressure to agree on a draft services text – which became Annex C to the final Declaration – was mounting. On 18 October, a number of trade unions and non-governmental organizations (NGOs) met with Ambassador de Mateo. We discussed benchmarking and the draft services text. He agreed that there was no convergence on quantitative benchmarking, although he maintained that there was convergence on the need to discuss it. An Indian NGO member suggested that one member state was working on the draft text. Ambassador de Mateo expressed surprise that anyone was working on a draft but said he would love to see it because he had only been the Chair for two weeks and was not sure what he wanted to write yet – had not even started.

Two days later, the full draft, translated into all the WTO languages, appears. Pretty fast work for a man who had no idea where to start! And, surprise, surprise, the text had everything the EU wanted, even though it was clear this had been totally rejected by the bulk of a membership that prides itself on working by consensus. It even included a requirement that, if a group of countries asked you to take part in plurilateral negotiations on a particular service, you *had to enter* negotiations. This generated a flurry of letters from NGOs and trade unions to Director General Pascal Lamy asking how he could possibly square this draft with claims about all Hong Kong texts being drawn up on the basis of consensus and GATS flexibility.

Many member state delegations also made their objections clear and told us of their support for our public correspondence with Lamy. Some met with us to discuss possible tactics.

#### THENCE TO HONG KONG

Here was the most contentious services text ever produced at the WTO, the most contentious issue at the Ministerial and they spent the first two days studiously refusing to discuss it. The strategy was clear: leave it until it was so late that any attempt to torpedo the text would also torpedo the entire Ministerial. Which country wanted that opprobrium?

The Africa, Caribbean and Pacific (ACP) countries, Association of Southeast Asian Nations (ASEAN) countries and the G90 made their displeasure clear. An

alternative text was proposed by the G90 but Hyung Chong Kim, the Korean minister facilitating the services talks, and the WTO secretariat managed to use bureaucratic tricks to keep this off the agenda for half a day. Green room discussions went on all night of 17 December and up until the morning of 18 December it was not clear that a services text would be agreed.

Finally, the text that emerged:

- Deleted the compulsory quantitative approach but preserved the idea of plurilateral negotiations
- Downgraded the plurilateral negotiations from compulsory to voluntary
- Preserved the EU text on how the various modes of trade would be treated, as well as reaffirming a set of modal and sectoral objectives sought by the North
- Mandated further discussions on domestic regulations, again on a basis not agreed by all members; and,
- Established a programme of work for 2006 that will see a number of plurilateral sectoral requests developed by February, followed by a further set of offers to be developed by the end of July and then full schedules of commitments by 31 October.

Please address correspondence to: Mike Waghorne, Assistant General Secretary, Public Services International, Place de l'Eglise, 29770 Esquibien, France. [email: Mike.Waghorne@world-psi.org]

RIAZ TAYOB

*Southern and Eastern African Trade Information and Negotiations Institute, South Africa*

### *The World Trade Organization: Hegemony and Theory in Practice*

(RIAZ TAYOB is the Country Director of the Southern and Eastern African Trade Information and Negotiations Institute [SEATINI] in South Africa; <http://www.seatini.org>)

There is a large palette of new thinking that has broadened and is being deepened in many of the social science disciplines. However, developments in economics, with almost unique singularity, failed to translate into different policy prescriptions of the many international economic institutions like the World Trade Organization (WTO). Powerful vested interests in economic thought and its application have ensured a market fundamentalist adherence to Classical Economics. The dominance of Classical Economics in economic governance has contributed to the wholesale purging of ideas and almost extinction of some species of academic teaching, like Schumpeterianism, while less fashionable ones like Marxism have suffered ridicule, notwithstanding their impact on other disciplines and useful predictive insights. The